

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

CHANNEL (H), INC., §  
§  
Plaintiff, §  
§  
v. § Civil Case No. 4:17-cv-00916-O  
§  
§  
CQUENTIA SERIES, LLC, HTG SERIES, §  
A SERIES DECLARED BY CQUENTIA §  
SERIES, LLC, AND ALAN MEEKER §  
§  
Defendants. §

**DEFENDANTS' UNOPPOSED MOTION TO MODIFY SCHEDULING ORDER**

**TO THE HONORABLE REED O'CONNOR, UNITED STATES DISTRICT JUDGE:**

Defendants CQuentia Series, LLC (“CQ”),<sup>1</sup> HTG Series (“HTG”) and Alan Meeker (“Meeker”) (collectively, “Defendants”) file this Unopposed Motion to Modify Scheduling Order and, in support hereof, show the following:

**I. SUMMARY OF MOTION**

Defendants, with the agreement of Plaintiff Channel (H), Inc. (“Plaintiff”), file this Motion to modify the Scheduling Order entered by the Court on January 16, 2018 [ECF No. 32] (the “Scheduling Order”). Specifically, Defendants, with the agreement of Plaintiff, respectfully request the modification of the following deadlines in the Scheduling Order as follows:

Item	Original Deadline in Scheduling Order	Requested New Deadline
Initial Expert Designation & Report (¶ 4 a.)	April 2, 2018	May 2, 2018
Responsive Expert Designation & Report (¶ 4 b.)	April 30, 2018	May 23, 2018
Mediation (¶ 5)	May 30, 2018	July 1, 2018

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<sup>1</sup> On October 10, 2017, CQ filed a Certificate of Amendment with the Texas Secretary of State, amending its Certificate of Formation to change its name to “Total Diagnostix Labs, LLC.”

At this time, Defendants do not seek the modification of any other deadline in the Scheduling order.

## II. BACKGROUND

On January 15, 2018, Defendants and Plaintiff filed their Joint Report Regarding Contents of Scheduling Order [ECF No. 31] (“**Joint Report**”). In the Joint Report, Defendants and Plaintiffs requested the following deadlines:

Item	Plaintiff's Requested Deadline	Defendants' Requested Deadline
Initial Expert Designation & Report	July 9, 2018	June 22, 2018
Responsive Expert Designation & Report	August 6, 2018	July 20, 2018
Mediation	No specific date requested.	No specific date requested.

[ECF No. 31].

On January 24, 2018, Plaintiff served Defendants with the following discovery requests:

(1) Plaintiff’s First Set of Document Requests Pursuant to FRCP 34; and (2) Plaintiff’s First Set of Interrogatories Pursuant to FRCP 33 (collectively, “**Plaintiff’s First Discovery Requests**”). Defendants’ objections, if any, and responses to Plaintiff’s First Discovery Requests are currently due on February 23, 2018.

On February 7, 2018, counsel for Defendants contacted counsel for Plaintiff and requested a thirty-day (30) extension of the deadline to serve objections, if any, and responses to Plaintiff’s First Discovery Requests. Plaintiff’s counsel stated that normally he would have no issues granting the requested extension but that, due to the impending expert and mediation deadlines set forth in the Scheduling Order, he would not agree to the requested extension unless the Scheduling Order was modified to as requested herein.

Accordingly, Defendants, with the agreement of Plaintiff, hereby respectfully request that the Scheduling Order be modified as requested herein, not for the purpose of delay, but because Defendants need additional time as shown below to adequately object, if at all, and respond to Plaintiff's First Set of Discovery Requests.

### III. ARGUMENTS & AUTHORITIES

Federal Rule of Civil Procedure 16(b)(4) provides that a scheduling order may be modified for good cause and with the judge's consent. Fed. R. Civ. P. 16(b)(4). Additionally, the Scheduling Order provides that the Scheduling Order "shall control the disposition of this case *unless it is modified by the Court upon a showing of good cause and by leave of court.*" [ECF No. 32, PageID 661, ¶ 12].

To show good cause exists to modify a scheduling order under Rule 16(b)(4), the party seeking the modification should show that the deadlines cannot reasonably be met despite the diligence of the party requesting the extension. *Ward v. CNH Am., L.L.C.*, 534 F. App'x 240, 242 (5th Cir. 2013) (citing *S&W Enters., L.L.C. v. SouthTrust Bank of Ala., NA*, 315 F.3d 533, 536 (5th Cir. 2003)). In the instant case, good cause exists to modify the Scheduling Order as requested herein.

Defendant Meeker is the manager of Defendants CQ and HTG. As the manager, Meeker will be required to devote substantial time in assisting Defendants CQ and HTG in responding to Plaintiff's First Discovery Requests in addition to devoting substantial time responding to Plaintiff's First Discovery Requests directed at Meeker, individually. Meeker, however, is unable to devote the time necessary to adequately assist in responding to Plaintiff's First Discovery Requests due his involvement several pending lawsuits related to the estate of Meeker's late father, all of which have been on file for approximately two (2) years (the "**Family Dispute**"). Meeker's late father's estate is valued in the millions of dollars and, as such, Meeker is currently

devoting significant time to the Family Dispute. Meeker and the other family members involved in the Family Dispute are currently attempting to resolve the Family Dispute through informal negotiations. Meeker anticipates that the Family Dispute may be resolved within the next thirty (30) days.

Based on the foregoing, on February 7, 2018, counsel for Defendants, Rafael C. Rodriguez, contacted counsel for Plaintiff, Brett Lewis, to request a thirty-day (30) extension of the deadline by which Defendants are to object, if at all, and respond to Plaintiff's First Discovery Requests. Plaintiff's counsel stated that normally he would have no issues agreeing to the requested extension but that, due to the impending expert and mediation deadlines set forth in the Scheduling Order, he was concerned that agreeing to the requested extension would not allow Plaintiff adequate time to comply with the expert deadlines set forth in the Scheduling Order after obtaining Defendants' anticipated responses to Plaintiff's First Discovery Requests. Plaintiff's counsel, however, stated that he would agree to the requested extension of the deadline to object, if at all, and respond to Plaintiff's First Discovery Requests if Defendants secured an order from the Court modifying the expert and mediation deadlines as requested herein.

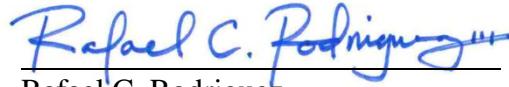
Based on the foregoing, good cause exists to modify the Scheduling Order, and Defendants, with the agreement of Plaintiff, hereby respectfully request that the Scheduling Order be modified as follows:

<b>Item</b>	<b>Original Deadline in Scheduling Order</b>	<b>Requested New Deadline</b>
Initial Expert Designation & Report (¶ 4 a.)	April 2, 2018	May 2, 2018
Responsive Expert Designation & Report (¶ 4 b.)	April 30, 2018	May 23, 2018
Mediation (¶ 5)	May 30, 2018	July 1, 2018

The foregoing requested modifications to the Scheduling Order have been agreed upon by Plaintiff.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that the Court grant this Unopposed Motion to Modify Scheduling Order and for such other relief, at law and in equity, to which Defendants are justly entitled.

Respectfully submitted,



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**ATTORNEYS FOR  
DEFENDANTS CQ, HTG, AND MEEKER**

**CERTIFICATE OF SERVICE**

I hereby certify that on February 7, 2018, I conferred with Plaintiff's counsel, Brett Lewis, regarding the relief requested in the foregoing documents, and Mr. Lewis stated that he is unopposed to the relief requested herein.

  
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Rafael C. Rodriguez

**CERTIFICATE OF SERVICE**

I hereby certify that on February 9, 2018, I served the foregoing document on the following attorneys of record in accordance with the Federal Rules of Civil Procedure, including via email and/or electronic service:

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Rafael C. Rodriguez